

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

CRYSTAL PINKNEY,)	
)	
Appellant,)	
)	
v.)	C.A. No. 06A-06-005-PLA
)	
DEL. DEPT. OF LABOR, DIVISION))	
OF UNEMPLOYMENT INS. and)	
ARAMARK CORPORATION)	
)	
Appellees.)	

Submitted: January 9, 2007
Decided: January 23, 2007

ON APPEAL FROM THE UNEMPLOYMENT
INSURANCE APPEAL BOARD
AFFIRMED.

This 23rd day of January, 2007, upon consideration of the appeal of Crystal Pinkney from the decision of the Unemployment Insurance Appeal Board, it appears to the Court that:

1. Crystal Pinkney ("Pinkney") was employed by Aramark Corporation ("Aramark"). Aramark, among other things, provides food and support services to colleges and universities, and contracts with the

University of Delaware (“University”) to provide such services. Aramark placed Pinkney at the Perkins Student Center at the University.¹

2. In June 2005, Pinkney was laid off by Aramark for the University’s summer break. She subsequently filed for unemployment benefits with the Delaware Department of Labor (“Department”). At the time she filed her claim, the Department provided her with a handbook entitled “Guide to Unemployment Benefits,” which provides information about when a claimant must file or reopen a claim. The Department ultimately awarded Pinkney benefits for the summer break and she was to return to work on September 5, 2005, which she did.²

3. On March 13, 2006, Pinkney was again laid off due to the University’s spring break. Pinkney filed another claim with the Department to receive benefits. However, she did not file the claim until April 3, 2006 (a Monday), and requested that the claim be backdated to March 26, 2006. A Claims Deputy from the Department determined that Pinkney was disqualified for the receipt of benefits for that period because, under the Department’s regulations, the effective date of the filing of any claim can

¹ See Docket 3; Docket 6.

² See Docket 3, p. 11-12.

backdate only to the Sunday immediately preceding the date of filing.³ Therefore, Pinkney was not permitted to backdate her claim to March 26 and, hence, could not receive benefits.⁴

4. Pinkney appealed the Claims Deputy's decision to the Department's Division of Unemployment Insurance Appeals. A hearing was held in which Pinkney and a Department representative testified. The Appeals Referee, who presided over the hearing, affirmed the Claims Deputy's decision by also finding that, under the Department's regulations,⁵ Pinkney was not permitted to backdate her claim to March 26.⁶

5. Pinkney then appealed the Appeals Referee's decision to the Unemployment Insurance Appeal Board ("Board"). The Board did not have another hearing, but rather based its decision upon consideration of the evidence presented to the Appeals Referee. The Board ultimately affirmed

³ See DEL. CODE REGS. 65-600-009, Claims and Registrations ("REGULATION 9"): "(1) Except as otherwise provided in this regulation, any individual claiming benefits or waiting period credits for total or part-total unemployment shall report in person at the public employment office most accessible to him and shall there ... (b) file a claim for benefits, which claim shall be effective as of the Sunday immediately preceding the date of the filing." See also DEL. CODE ANN. tit 19, § 3315(2) ("SECTION 3315(2)": "An unemployed individual shall be eligible to receive benefits with respect to any week only if the Department finds that the individual: ... (2) Has made a claim for benefits with respect to such week in accordance with such regulations as the Department prescribes[.]"

⁴ See Docket 3, p. 2.

⁵ REGULATION 9. See also SECTION 3315(2).

⁶ See Docket 3, p. 6-8.

the Appeals Referee's decision. It found that, under REGULATION 9, Pinkney was not permitted to backdate her claim and was, therefore, disqualified from receiving benefits for that period. The Board also determined that, under DEL. CODE ANN. tit. 19, § 3315(3) ("SECTION 3315(3)"),⁷ Pinkney was ineligible for benefits because she testified that she would have been unable to work during the week she was seeking benefits due to an illness and a death in the family. Lastly, pursuant to DEL. CODE ANN. tit. 19, § 3320 ("SECTION 3320"),⁸ the Board denied Pinkney the right to any further appeal.

6. Pinkney now proceeds *pro se* in appealing the Board's decision to this Court. In her two-paragraph brief to the Court, she makes only one claim. She contends that the "Guide to Unemployment Benefits" handbook she was provided "states nothing about filing for benefits after [a] week or more." Pinkney, therefore, maintains that she is entitled to benefits for the period in which she was laid off.⁹ Neither Aramark nor the Department have filed an answering brief and, as a result, this Court previously issued an

⁷ "An unemployed individual shall be eligible to receive benefits with respect to any week only if the Department finds that the individual: ... (3) Is able to work and is available for work[.]"

⁸ "The [Board] may on its own motion, affirm, modify, or reverse any decision of an appeal tribunal on the basis of the evidence previously submitted to the appeal tribunal or it may permit any of the parties to such decision to initiate further appeal before it."

⁹ See Docket 6.

Order explaining that it will make a determination on the papers which have been filed.¹⁰

7. Appellate review of a Board decision is limited. The Court's function is confined to determining whether the Board's decisions are free from legal error, whether substantial evidence supports the Board's findings of fact and conclusions of law, and whether the Board abused its discretion when deciding "discretionary" issues.¹¹ Questions of law, which arise in ascertaining if there was legal error, are subject to *de novo* review requiring the Court to determine whether the Board erred in formulating or applying legal precepts.¹² "Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It is ...

¹⁰ See Docket 7.

¹¹ See *Fed. Street Fin. Serv. v. Davies*, 2000 WL 1211514, at *2 (Del. Super. Ct. June 28, 2000) ("In reviewing the decisions of the [Board], this Court must determine whether the findings and conclusions of the [Board] are free from legal error and supported by substantial evidence in the record."); *Dove v. Boardwalk Plaza*, 1995 WL 656845, at *2 (Del. Super. Ct. Sept. 25, 1995) ("On appeal of a discretionary ruling, this Court's scope of review is limited to whether the Board abused its discretion."); *Mintz v. Wilmington Trust Co.*, 1995 WL 862116, at *2 (Del. Super. Ct. Nov. 15, 1995) (quoting *Funk v. Unemployment Ins. Appeal Bd.*, 591 A.2d 222, 225 (Del. 1991)) (When reviewing "discretionary acts of the Board rather than the Board's determination as to the merits of the case, '[t]he scope of review ... is whether the Board abused its discretion. Absent abuse of discretion [the Court] must uphold a decision of an administrative tribunal.'").

¹² *Bermudez v. PTFE Compounds, Inc.*, 2006 WL 2382793, at *3 (Del. Super. Ct. Aug. 16, 2006).

more than a scintilla but less than a preponderance of the evidence.”¹³

Abuse of discretion “occurs when the Board ‘exceeds the bounds of reason in view of the circumstances and has ignored recognized rules of law or practice so as to produce injustice.’”¹⁴ Stated differently, the Board abuses its discretion when it makes a ruling “based on ‘clearly unreasonable or capricious grounds.’”¹⁵

8. In applying those standards to this case, the Court is satisfied that the Board did not abuse its discretion and that its decision is free from legal error and supported by substantial evidence. First, REGULATION 9 clearly does not permit a claimant to backdate his or her claim prior to the previous Sunday before the claim was filed. Here, the record indicates that Pinkney did not file her claim until April 3 (a Monday). She is, thus, not permitted to backdate her claim to March 26. Pinkney is only permitted to backdate her claim to April 2 – the Sunday immediately preceding her filing date. Next, Pinkney testified at the hearing before the Appeals Referee that she was unable and unavailable to work during the week in which she is

¹³ *Breeding v. Contractors-One, Inc.*, 549 A.2d 1102, 1104 (Del. 1988).

¹⁴ *Nardi v. Lewis*, 2000 WL 303147, at *2 (Del. Super. Ct. Jan. 26, 2000) (citation omitted).

¹⁵ *K-Mart, Inc. v. Bowles*, 1995 WL 269872, at *2 (Del. Super. Ct. Mar. 23, 1995) (citation omitted).

seeking benefits due to an illness and a death in the family. Therefore, because SECTION 3315(3) requires that an individual be able to work and be available to work before that individual can receive benefits, Pinkney is ineligible to receive benefits during the period in which she was ill and there was a death in her family. Lastly, the Board's decision to not permit Pinkney any further appeal was not an abuse of its discretion as there is nothing to indicate that its decision was based on clearly unreasonable or capricious grounds.¹⁶

9. Based on the foregoing, the Board's decision is **AFFIRMED**.

IT IS SO ORDERED.

Peggy L. Ableman, Judge

Original to Prothonotary

cc: Crystal Pinkney
Thomas H. Ellis, Esquire

¹⁶ See *Bowles*, 1995 WL 269872, at *2.